

value will be determined by computing the sum of:

(A) All expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(B) An amount for profit; and

(C) Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

(iii) If the pertinent information needed to compute the cost or value of a material is not available, the port director may ascertain or estimate the value thereof using all reasonable ways and means at his or her disposal.

(d) *Direct costs of processing operations*—(1) *Items included.* For purposes of paragraph (a) of this section, the words “direct costs of processing operations” mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific goods under consideration. Such costs include, but are not limited to the following, to the extent that they are includable in the appraised value of the imported goods:

(i) All actual labor costs involved in the growth, production, manufacture, or assembly of the specific goods, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific goods;

(iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific goods; and

(iv) Costs of inspecting and testing the specific goods.

(2) *Items not included.* For purposes of paragraph (a) of this section, the words “direct costs of processing operations” do not include items that are not directly attributable to the goods under consideration or are not costs of manufacturing the product. These include, but are not limited to:

(i) Profit; and

(ii) General expenses of doing business that either are not allocable to the specific goods or are not related to

the growth, production, manufacture, or assembly of the goods, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

§ 10.711 Imported directly.

(a) *General.* To be eligible for preferential tariff treatment under the US-JFTA, a good must be imported directly from Jordan into the customs territory of the United States. For purposes of this requirement, the words “imported directly” mean:

(1) Direct shipment from Jordan to the United States without passing through the territory of any intermediate country;

(2) If shipment is from Jordan to the United States through the territory of an intermediate country, the goods in the shipment do not enter into the commerce of the intermediate country and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or

(3) If shipment is through an intermediate country and the invoices and other documents do not show the United States as the final destination, the goods in the shipment are imported directly only if they:

(i) Remained under the control of the customs authority in the intermediate country;

(ii) Did not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail, provided that the goods are imported as a result of the original commercial transaction between the importer and the producer or the producer's sales agent; and

(iii) Have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the goods in good condition.

(b) *Documentary evidence.* An importer making a claim for preferential tariff treatment under the US-JFTA may be required to demonstrate, to CBP's satisfaction, that the goods were “imported directly” as that term is defined in paragraph (a) of this section. An importer may demonstrate compliance with this section by submitting documentary evidence. Such evidence

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may include, but is not limited to, bills of lading, airway bills, packing lists, commercial invoices, receiving and inventory records, and customs entry and exit documents.

ORIGIN VERIFICATIONS

§ 10.712 Verification of claim for preferential tariff treatment.

A claim for preferential tariff treatment made under § 10.703 of this subpart, including any statements or other information submitted to CBP in support of the claim, will be subject to such verification as the port director deems necessary. In the event that the port director for any reason is prevented from verifying the claim, or is provided with insufficient information to verify or substantiate the claim, the port director may deny the claim for preferential tariff treatment.

Subpart L—United States-Australia Free Trade Agreement

SOURCE: CBP Dec. 15–03, 80 FR 7308, Feb. 10, 2015, unless otherwise noted.

GENERAL PROVISIONS

§ 10.721 Scope.

This subpart implements the duty preference and related customs provisions applicable to imported goods under the United States-Australia Free Trade Agreement (the AFTA) signed on May 18, 2004, and under the United States-Australia Free Trade Agreement Implementation Act (“the Act”), Pub. L. 108–286, 118 Stat. 919 (19 U.S.C. 3805 note). Except as otherwise specified in this subpart, the procedures and other requirements set forth in this subpart are in addition to the customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the AFTA and the Act are contained in Parts 24, 162, and 163 of this chapter.

§ 10.722 General definitions.

As used in this subpart, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning

or a different definition is prescribed for a particular section of this subpart:

(a) *Claim for preferential tariff treatment*. “Claim for preferential tariff treatment” means a claim that a good is entitled to the duty rate applicable under the AFTA to an originating good, and to an exemption from the merchandise processing fee;

(b) *Claim of origin*. “Claim of origin” means a claim that a textile or apparel good is an originating good or a good of a Party or satisfies the non-preferential rules of origin of a Party;

(c) *Customs duty*. “Customs duty” includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but does not include any:

(1) Charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994 in respect of the like domestic good or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(2) Antidumping or countervailing duty that is applied pursuant to a Party’s law; or

(3) Fee or other charge in connection with importation commensurate with the cost of services rendered;

(d) *Customs Valuation Agreement*. “Customs Valuation Agreement” means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the WTO Agreement;

(e) *Days*. “Days” means calendar days;

(f) *Enterprise*. “Enterprise” means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organization;

(g) *Enterprise of a Party*. “Enterprise of a Party” means an enterprise constituted or organized under a Party’s law;

(h) *GATT 1994*. “GATT 1994” means the *General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the *WTO Agreement*;